

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-049 (3)

-vs-

District Judge Thomas M. Rose

Chief Magistrate Judge Michael R. Merz

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DANIEL SAIN,

Defendant.

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**REPORT AND RECOMMENDATIONS**

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This case came on for hearing on November 5, 2008. Having conducted the colloquy required by Fed. R. Crim. P. 11, the Magistrate Judge recommends that the Court accept the Plea Agreement of the parties and find that the Defendant's plea of guilty pursuant to that Agreement is knowing, intelligent, and voluntary. Anticipating the Court's adoption of this Report, the Magistrate Judge referred Defendant to the United States Probation Department for a presentence investigation and confirmed to all parties that this case is set for sentencing before Judge Rose on February 6, 2009, at 2:00 p.m.

November 6, 2008.

s/ **Michael R. Merz**  
Chief United States Magistrate Judge

**NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C),

or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6<sup>th</sup> Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).